Prisons & Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Robert Ellery a prisoner at HMP Cardiff on 31 October 2016

A report by the Prisons and Probation Ombudsman
Nigel Newcomen CBE

PO Box 70769
London, SE1P 4XY

Email: mail@ppo.gsi.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100
F | 020 7633 4141

Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

© Crown copyright 2021

This report is licensed under the terms of the Open Government Licence v3.0. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or email the Copyright Team at psi@nationalarchives.gov.uk

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

When you use this information under the Open Government Licence, you should include the following attribution: Independent investigation into the death of Mr Robert Ellery, Prisons and Probation Ombudsman, July 2017, licensed under the Open Government Licence.

The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Robert Ellery was found hanged in his cell on 31 October 2016 at HMP Cardiff. He was 30 years old. I offer my condolences to Mr Ellery's family and friends.

Mr Ellery was to be released from Cardiff four days after his death. On the day that he died, he was upset and showed an officer some scratches he had made on his chest and thighs. A mental health nurse visited Mr Ellery twice that afternoon, and arranged for him to be prescribed sleeping medication and an antidepressant, and for a psychotherapist to visit him the next day.

While prison staff put a number of measures in place for Mr Ellery that afternoon, I am concerned that Mr Ellery had a number of risk factors for suicide and self-harm but staff missed the opportunity to provide him with additional support by starting ACCT procedures, and failed to document their reasons for not doing so.

I am also concerned that mental health and substance misuse services were not integrated and in line with the prison's dual diagnosis policy. Moreover, the drug detoxification offered was not equivalent to that which Mr Ellery could have expected in an English prison or in the community. I therefore repeat a recommendation made following an investigation into a previous death that prisoners in Welsh prisons should have access to effective drug detoxification treatment.

Finally, I am concerned that staff were unaware of the policy for issuing medication at night, and there were delays in the control room calling an ambulance.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Nigel Newcomen CBE
Prisons and Probation Ombudsman **July 2017**

Contents

Summary 1

The Investigation Process 4

Background Information 5

Key Events 7

Findings 15

Summary

Events

1. On 11 July 2016, Mr Robert Ellery arrived at HMP Cardiff. It was not his first time in prison. A nursing assistant assessed Mr Ellery and noted he had a history of substance misuse. He referred Mr Ellery for substance misuse services and located him in the detoxification wing. The next day, a nurse assessed Mr Ellery and a GP prescribed medication to help with the symptoms of withdrawal.

2. On 14 July, Mr Ellery asked a nurse for pain medication and opiate substitute medication. The nurse said that the prison did not provide this medication and made an appointment with the GP. On 20 July, a GP noted that Mr Ellery had said he was anxious about his son being taken into care. He prescribed medication to help Mr Ellery sleep and medication for his anxiety.

3. On 21 July, Mr Ellery told a nurse and a substance misuse worker that he was anxious about his son. The nurse referred him to the mental health team and the substance misuse worker also contacted the mental health team. On 25 July, staff discussed Mr Ellery's referral at the mental health team meeting but decided that he would be monitored by the substance misuse team. The Head of Mental Health said he spoke to the substance misuse worker about this, but the substance misuse worker told investigators that she did not know that the mental health team had not accepted Mr Ellery's referral. Mr Ellery continued to receive support from the substance misuse team during his time at Cardiff.

4. On 31 October, Mr Ellery showed an officer some scratches he had made on his legs. He said that he had made them a week ago but would not do it again. A mental health nurse assessed Mr Ellery and he showed her some more scratches that he had made on his chest. Mr Ellery said that he had no thoughts of suicide. Later that afternoon, Mr Ellery asked to speak to the nurse again but he was anxious and found it difficult to talk. As Mr Ellery was going to be released from prison later that week, the nurse said she would ask the psychotherapist to visit him the next day to talk about counselling services in the community. She arranged for a GP to prescribe antidepressants and sleeping medication for Mr Ellery.

5. Around 10.00pm, Mr Ellery rang his cell bell asking about his medication. Prison officers contacted healthcare twice to ask if they could come and collect Mr Ellery's medication to give to him but the nurse refused on both occasions. A prison manager said that he would go to healthcare to try and get Mr Ellery his medication.

6. At around 11.00pm, an officer looked through Mr Ellery's observation panel and saw him hanging from the curtain rail and called a code blue radio emergency (indicating that a prisoner is unconscious, not breathing or is having breathing problems). Another officer arrived and opened the cell and they started cardiopulmonary resuscitation (CPR). Healthcare staff arrived and tried to resuscitate Mr Ellery. Control room staff called an ambulance but did not explain the nature of the emergency and there was a delay of 19 minutes before an ambulance was sent to the prison. Paramedics arrived and tried to resuscitate

Mr Ellery but were not successful, and at 11.45pm, they recorded that he had died.

Findings

7. We consider that prison staff should have started Prison Service suicide and self-harm prevention procedures, known as ACCT after Mr Ellery showed them scratches he had made on his legs and chest. Mr Ellery had a number of risk factors for suicide and self-harm but staff did not think ACCT procedures were needed because Mr Ellery said he did not intend to self-harm again and had no thoughts of suicide.

8. The investigation found that the prison's integrated mental health and substance misuse services were not, in fact, integrated or in line with the prison's dual diagnosis policy. Mr Ellery's substance misuse worker did not know the outcome of his mental health referral and the Head of Mental Health said that prisoners undergoing detoxification were not usually assessed by the mental health team until they had finished withdrawing. Staff referred Mr Ellery to the substance misuse team on two occasions when he was thought to be involved with new psychoactive substances (NPS), however there is no evidence that he was reviewed by the team. There was no evidence that the substance misuse team reviewed Mr Ellery after a wrap of Spice and some smoking materials were found in his cell.

9. The investigation also found that the management of Mr Ellery's substance misuse and withdrawal was not equivalent to that which would be provided in the community or in an English prison because the prison did not give him a choice of medication for his detoxification.

10. Prison staff were not aware of healthcare's policy for providing medication to prisoners at night. While officers said that nurses would issue medication to prisoners at night, nursing staff said that medication is only issued to prisoners at night if a prisoner was distressed and urgently needed their medication.

11. The investigation found that control room staff did not efficiently communicate the nature of the emergency on the night Mr Ellery died. This resulted in a delay of 19 minutes from when the officer called an emergency code and an ambulance was dispatched.

Recommendations

- The Governor should ensure that staff are aware of, consider and record all the known risk factors for suicide or self-harm. They should open an ACCT whenever a prisoner has recently self-harmed, expressed suicidal intent or has other significant risk factors. When, exceptionally, they decide not to begin ACCT procedures for prisoners with significant risk factors, they should clearly record the reasons why.

- The Governor and the Head of Healthcare should ensure prisoners with dual diagnosis receive appropriate integrated treatment.

- The Governor and Head of Healthcare ensure that staff consider the risks to physical and mental health and the risk of suicide and self-harm to prisoners under the influence of illicit substances and ensure there is adequate post-care.
- The Governor and the Head of Healthcare should ensure that all prison staff understand the policy for issuing medication to prisoners at night.
- The Governor should ensure that all prison and healthcare staff are made aware of and understand PSI 03/2013 and their responsibilities during medical emergencies as outlined in the local Medical Emergency Response Code Protocol so that staff efficiently communicate the nature of a medical emergency and there is no delay in calling, directing or discharging ambulances.
- The Chief Executive of Her Majesty’s Prison and Probation Service and the Director General for Health and Social Services/the Chief Executive of NHS Wales should ensure prisoners in Welsh prisons have access to effective drug detoxification treatment from their first night in custody.

The Investigation Process

12. The investigator issued notices to staff and prisoners at HMP Cardiff informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

13. The investigator visited HMP Cardiff on 3 November 2016. She obtained copies of relevant extracts from Mr Ellery's prison and medical records.

14. Health Inspectorate Wales (HIW) commissioned a clinical reviewer to review Mr Ellery's clinical care at the prison.

15. The investigator interviewed four prisoners at HMP Cardiff on 3 November 2016 and 13 members of staff and two prisoners with the clinical reviewer on 9 and 10 January 2017. She conducted two further interviews with staff by telephone on 23 January and 20 March 2017.

16. We informed HM Coroner for Cardiff and Vale of Glamorgan District of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

17. One of the Ombudsman's family liaison officers contacted Mr Ellery's family to explain the investigation and to ask if they had any matters they wanted the investigation to consider. These included details about the difficulty Mr Ellery had obtaining his medication the night he died, whether Mr Ellery had told staff or prisoners about his relationship problems and if he had contacted his partner, and details about the grazes on his chest and whether he had tried to self-harm.

Background Information

HMP Cardiff

18. HMP Cardiff holds around 800 men, mostly from South East Wales. Many of the prisoners come from local courts on remand. Cardiff and Vale University Health Board is responsible for delivering primary, physical and mental health services at the prison.

HM Inspectorate of Prisons

19. The most recent inspection of HMP Cardiff was in December 2016. Inspectors reported that incidents of self-harm had increased since the last inspection. While prisoners in crisis were usually well-supported and the quality of ACCT documents was good, inspectors found that not enough reviews were multi-disciplinary and triggers that cause a prisoner to self-harm were not always identified. Inspectors found that there was not enough monitoring and observation for prisoners during opiate and alcohol detoxification, and that while the mental health team responded to prisoners with complex, serious and enduring mental health problems, capacity to assist prisoners with emotional and mild to moderate problems was inadequate.

Independent Monitoring Board

20. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to August 2016, the IMB reported that Cardiff maintains positive relationships between staff and prisoners but that staff shortages have resulted in a severely restricted regime and prisoners were locked in the cells for unacceptable periods of time. The greatest amount of complaints from prisoners was about medication, where prisoners said they were being prescribed drugs of a lesser strength by healthcare and were being deprived of medication they were provided with in the community.

Previous deaths at HMP Cardiff

21. There have been three other self-inflicted deaths at HMP Cardiff since 2014. Similar issues have been raised about the emergency response in previous investigations.

Assessment, Care in Custody and Teamwork

22. Assessment Care in Custody and Teamwork (ACCT) is the Prison Service care-planning system used to support prisoners at risk of suicide or self-harm. The purpose of ACCT is to try to determine the level of risk, how to reduce the risk and how best to monitor and supervise the prisoner. After an initial assessment of the prisoner's main concerns, levels of supervision and interactions are set according to the perceived risk of harm. Checks should be irregular to prevent the prisoner anticipating when they will occur. There should be regular multi-disciplinary review meetings involving the prisoner. As part of the process, a caremap (plan of care, support and intervention) is put in place. The ACCT plan should not be closed until all the actions of the caremap have been completed.

All decisions made as part of the ACCT process and any relevant observations about the prisoner should be written in the ACCT booklet, which accompanies the prisoner as they move around the prison. Guidance on ACCT procedures is set out in Prison Service Instruction (PSI) 64/2011.

New Psychoactive Substances (NPS)

23. New psychoactive substances, previously known as 'legal highs' are an increasing problem across the prison estate. They are difficult to detect and can affect people in a number of ways including increasing heart rate, raising blood pressure, reducing blood supply to the heart and vomiting. Prisoners under the influence of NPS can present with marked levels of disinhibition, heightened energy levels, a high tolerance of pain and a potential for violence. Besides emerging evidence of such dangers to physical health, there is potential for precipitating or exacerbating the deterioration of mental health with links to suicide or self-harm.

24. In July 2015, we published a Learning Lessons Bulletin about the use of NPS and its dangers, including its close association with debt, bullying and violence. The bulletin identified the need for better awareness among staff and prisoners of the dangers of NPS; the need for more effective drug supply reduction strategies; better monitoring by drug treatment services; and effective violence reduction strategies.

25. Her Majesty's Prison and Probation Service (HMPPS) now has in place provisions that enable prisoners to be tested for specified non-controlled psychoactive substances as part of established mandatory drugs testing arrangements. Testing has begun, and HMPPS continue to analyse data about drug use in prison to ensure new versions of NPS are included in the testing process.

Dual diagnosis

26. Prisoners with mental health problems and substance misuse issues are known as having 'dual diagnosis'.

27. In January 2016, we published a Learning Lessons Bulletin about the mental health of prisoners. This bulletin highlighted that difficulties in coping with mental health problems can be made worse when a prisoner also has to cope with battling drug or alcohol misuse. The bulletin recommended that mental health and substance misuse services should work together to provide coordinated care to prisoners, including the use of agreed dual diagnosis tools to assess prisoner needs, and regular meetings to discuss and plan joint care.

Key Events

28. On 11 July 2016, Mr Robert Ellery was admitted to HMP Cardiff after being sentenced to 26 weeks imprisonment for theft. This was not his first time in prison or at Cardiff.

29. That evening, a nursing assistant assessed Mr Ellery in reception. He noted that Mr Ellery had a history of substance misuse including benzodiazepines, crack cocaine, heroin and alcohol, and that he had used drugs in the last month. He noted that Mr Ellery appeared to be in mild opiate withdrawal. He recorded that Mr Ellery had no thoughts of suicide or self-harm, but that his Prisoner Escort Record (PER- which accompanies prisoners on all journeys between police stations, courts and prisons, to communicate risk factors) stated that Mr Ellery had tied a blanket around neck in a cell in police custody in 2010. He asked Mr Ellery about this but he said that it never happened. Mr Ellery was located in the detoxification wing for substance misuse support.

30. On 12 July, a nurse assessed Mr Ellery as part of his second reception screening and he told her that he drank about six litres of alcohol a day. She noted that he was quite anxious throughout the assessment, was sweating and had a mild tremor. She recorded that he had moderate symptoms of opiate withdrawal and mild symptoms of alcohol withdrawal, and gave him medication to help with the symptoms of withdrawal including mebeverine (to help with stomach cramps), metoclopramide (to stop nausea and vomiting) and paracetamol (pain medication). She contacted Mr Ellery's GP in the community and confirmed that he had not been prescribed any medication, including methadone. A GP prescribed diazepam (to reduce anxiety), thiamine (a vitamin) and loperamide (to treat diarrhoea) for Mr Ellery but did not conduct a face to face assessment.

31. On 13 July, a substance misuse worker assessed Mr Ellery as part of his induction assessment. She explained the services that were available and gave Mr Ellery harm minimisation advice. She completed a referral for further support from the substance misuse team.

32. On 14 July, Mr Ellery came to the medication hatch and was tearful about his withdrawal. He said that he needed help sleeping, had aches and pains and wanted pregabalin (medication used for pain relief) or opiate substitute medication (medication given as a substitute for heroin). A nurse told Mr Ellery that Welsh prisons did not provide pregabalin for substance withdrawal and only gave opiate substitute medication to prisoners who had been prescribed it in the community (opiate substitute medication is available to all prisoners in English prisons, where clinically appropriate). Mr Ellery told her that he was struggling but had no thoughts of suicide or self-harm. She arranged a GP appointment for Mr Ellery and told him to speak to staff if he needed support.

33. On 16 July, a nurse assessed Mr Ellery and noted that he was sweating and flushed with mild aches, nasal stuffiness and stomach cramps and he said he was getting more anxious and irritable. That afternoon, an officer noted that Mr Ellery had tripped the power to his cell for the past three nights. Another officer told investigators that since Cardiff had become non-smoking it was common for

prisoners to use the electrical socket in their cell to light smoking materials, which sometimes tripped the power supply.

34. On 20 July, a GP examined Mr Ellery, who said he was anxious because he had been told that his ex-partner was using drugs and he was worried that his son would be taken into care. He said that he was frantic because he could not speak to anyone who could help him. Mr Ellery spoke about suicide but said that his cellmate kept him safe and he was not interested in killing himself because of his son. The GP encouraged him to advise his ex-partner to seek help and prescribed 'one-off' Zoplicone (medication to help him sleep), propranol (to help with anxiety) and sertraline (an anti depressant). The same day, an officer noted that Mr Ellery had been given an IEP warning for smoking in his cell. The Incentive and Earned Privileges (IEP) scheme aims to encourage and reward responsible behaviour. Prisoners can earn additional privileges such as extra visits, more time out of cell, the ability to earn more money in prison jobs and to wear their own clothes. There are four levels: entry, basic, standard and enhanced.

35. On 21 July, an officer noted that Mr Ellery was being demanding and he behaved in an immature way when staff refused his requests. He spoke to Mr Ellery about controlling his emotions and asked a nurse to speak to him about a mental health referral. A nurse examined Mr Ellery and noted that he appeared anxious and said his head was going to explode. He said that he had no thoughts of self-harm or suicide because of his child, but problems with his girlfriend made his anxiety worse. Mr Ellery said that he had taken mirtazapine (an antidepressant) in the community which had helped with his anxiety. She referred Mr Ellery to the mental health team for review.

36. The next day, Mr Ellery told the substance misuse worker that he was very anxious and was worried about his son. She told the social services duty team about Mr Ellery's concerns. She also spoke to the mental health team who said they had seen Mr Ellery and would discuss his referral at the next multi-disciplinary mental health team meeting.

37. On 25 July, staff gave Mr Ellery a written IEP warning because he had tripped the electricity in his cell several times. Later that day, a community psychiatric nurse noted that Mr Ellery had been discussed in a multi-disciplinary mental health team meeting. She recorded that he did not appear to have mental health problems that needed support from the mental health in reach team, but that the Head of Mental Health would speak to his substance misuse worker about providing him with support.

38. O 2 August, Mr Ellery attended a substance misuse group. The substance misuse worker noted that Mr Ellery participated but was not very talkative or social with others in the group.

39. On 18 August, Mr Ellery appeared in court on two assault charges; the case was dismissed.

40. On 2 September, Mr Ellery had a fight with another prisoner. An officer noted that Mr Ellery was the first to throw a punch and an intelligence report noted that Mr Ellery may have been paid to assault the prisoner. She told investigators that

Mr Ellery had been a professional boxer and they thought he had been paid in new psychoactive substances (NPS) for the fight. A nurse examined Mr Ellery and recorded that there were scratches to the back of his neck and redness on his face, but he would not let her check him over properly and said that he was okay. Staff moved Mr Ellery to different wing.

41. On 3 September, an officer noted that Mr Ellery could hardly stand up and was confused about what was happening. She took Mr Ellery back to his cell. She recorded that he was clearly under the influence of NPS and that staff delivered food to his door because they thought that it was too dangerous for him to go down the stairs. Staff observed Mr Ellery for 24 hours and his prison records noted that he was seen by healthcare, but there is no record of this in his healthcare notes. Two days later, prison staff disciplined Mr Ellery and reduced his IEP level to basic for fighting and being under the influence of NPS. Staff notified the substance misuse team but there is no evidence that they arranged to review Mr Ellery.

42. On 8 September, Mr Ellery told a family engagement worker that he wanted contact with his son. Mr Ellery could not contact his ex-partner or his son directly because of previous domestic violence. She spoke to a social worker who said that he would contact Mr Ellery's ex-partner to see if she would share information about their son. The following week, the social worker told her that Mr Ellery's ex-partner was happy to share information about their son and that he would try to arrange for her to send Mr Ellery a letter, card or some pictures.

43. On 4 October, staff fired Mr Ellery from his job as a painter after they found him smoking. Staff found a broken kettle in his cell and noted that the electricity was tripped because he had 'wired up in cell' (where prisoners use the electrical socket in their cell to light smoking materials). Staff found two small pieces of foil or soft metal hanging out of the power socket, a dessert bowl and two take-away containers with a wrap of Spice and an asthma pump changed into a smoking device. Staff submitted an intelligence report, put Mr Ellery on basic IEP level and referred him to the substance misuse team, but there is no evidence in his prison record that he was reviewed by a substance misuse worker and provided with support and advice.

44. On 25 October, an officer reviewed Mr Ellery under the IEP scheme and noted that he would remain on basic level because he was refusing to share a cell. Mr Ellery threatened to assault any prisoner that was put in his cell.

45. On 28 October, a resettlement officer completed a housing application for Mr Ellery because he was due to be released on 4 November 2016 but said that he could not stay with his family. The same day, the family engagement worker noted that the social worker had said that Mr Ellery could send his son a letter via social services, and that she would be seeing Mr Ellery's partner the following week and would ask for a picture of their son and some of his drawings. She recorded that she would tell Mr Ellery about this and provide further advice on how to remain in contact with his son when he was released.

Events of 31 October

46. Around 11.00am, an officer heard Mr Ellery shouting at a wing supervisor because he was unhappy that he remained on basic IEP level for refusing to share a cell. Mr Ellery's prison record noted that he could sometimes behave immaturely and would become quite angry and shout, become abusive or throw things around his cell when he did not get what he wanted. Mr Ellery was on basic IEP level for most of his time at Cardiff because of several negative comments about his behaviour. However, except for the fight Mr Ellery had on 2 September, he was not violent with other prisoners or staff.

47. The officer asked Mr Ellery what was wrong, and he said he did not want to share a cell because he was awake during the night and also because he was worried about hurting a cellmate. She asked him what was going on, but Mr Ellery said he did not want to talk about it. She asked Mr Ellery if he would speak to someone from mental health, and Mr Ellery pulled his trousers up and showed her several cuts that he had made to his legs. She asked Mr Ellery why he did not tell anyone about the cuts and he said that he had made them a week ago and that he 'felt stupid about it'. Mr Ellery said that he had been feeling angry, frustrated and 'wound up' and when he 'came round' and calmed down he was 'like this'. He told her that he had not cut himself again since. She said that she would need to start ACCT procedures but Mr Ellery said he did not want other prisoners to know that he had self-harmed. She called the mental health team and asked for a nurse to come and speak to him.

48. At around 11.20am, a Supervising Officer (SO) told a mental health nurse that the officer wanted her to speak to Mr Ellery on the wing, so the nurse went to the wing office. The officer told investigators that she decided to stay in the wing office with the nurse because she knew Mr Ellery well, and she did not want to leave him alone with the nurse because he had been aggressive. Mr Ellery showed the nurse scratches that he had made all over his chest and the top of his thighs. She said that Mr Ellery did not want to talk about why he had self-harmed, but said that his anger was 'building up and building up' and he had to release it. He said that, rather than lash out at somebody else, he had hurt himself. He told her that he had no thoughts of suicide and that he felt embarrassed about self-harming.

49. Mr Ellery told the nurse that his grandmother, who had raised him, died in January 2016 and his relationship with his partner had recently broken down and he had found out that she was pregnant with another person's child. He said that he had used Spice recently and self-medicated with heroin in the community. Mr Ellery told her that he had no contact with his family or friends. Mr Ellery said that his GP had prescribed citalopram and sertraline (anti-depressant medication) in the past and although he thought it did not help, he was willing to try different medication. The nurse told Mr Ellery that, because he was being released in a few days, she would not be able to monitor his progress with antidepressants. She asked the GP to prescribe an antidepressant, and Mr Ellery agreed to follow-up with his GP in the community after he was released from prison.

50. The nurse noted that Mr Ellery appeared anxious, was sweating, and found it difficult to talk. He told her that he had arranged to work as a scaffolder when he was released, but that he had obtained floor space in a housing shelter and a condition of this accommodation was that he would not be allowed to work. Mr Ellery said that he found this frustrating. She noted that Mr Ellery appeared low in mood and that he had limited coping skills, but he engaged reasonably well and there was no evidence of psychosis.

51. Mr Ellery said that he had self-harmed to get the anger out of his system and did not want to be in a cell with somebody in case he harmed them. Mr Ellery said that when his anger started to build up, he felt that he needed to take it out on something and he might take it out on a cellmate. The nurse asked Mr Ellery if he had any thoughts of suicide or self-harm and told him that she was concerned about putting him a cell by himself. He said that he had no thoughts of suicide because he had a five year old son and agreed to ask for support rather than self-harm over the next few days. She noted that Mr Ellery should remain in a single cell for healthcare reasons and referred him to the GP for an antidepressant (this meant that he would not be disciplined for refusing to share a cell). She recorded that the officer planned to open an ACCT, contact housing, and support Mr Ellery over the next few days.

52. The nurse told investigators that when she went to see Mr Ellery she thought staff were managing him under the ACCT process and that was why she had been called to speak to him. However, she did not have any concerns that ACCT procedures had not been started for Mr Ellery, and told investigators that she did not know Mr Ellery, so was happy to leave the decision to the SO and the officer because they knew Mr Ellery well. She said that the officer told her she would discuss starting ACCT procedures with the SO.

53. The officer said that Mr Ellery did not want to be managed under the ACCT process because he was popular with the other prisoners and did not want them to know about his self-harm. She said that Mr Ellery had told her he was not going to harm himself again and when she said that she was worried about him hurting himself, he said 'Don't be silly, I'm not going to do that again'. He said that he just wanted his TV and kettle back and that he now had those things. She said that she discussed starting ACCT procedures with the SO, and they decided that Mr Ellery did not need the ACCT process because he had not had any suicidal thoughts and he had self-harmed seven or eight days ago and not recently. There is no note of this discussion in Mr Ellery's prison record, whether staff considered his risk factors, or the reasons the officers decided not to start ACCT procedures.

54. At around 12.45pm, Mr Ellery pressed his cell bell and asked the officer if he could speak to the nurse again. He told her that he would 'open up a bit' and speak to her about his concerns. She told the nurse that she had not started ACCT procedures, but that if she had any concerns she should tell her and she would start the ACCT procedures.

55. At around 4.00pm, the nurse visited Mr Ellery on the wing. She told the officer that she would start ACCT procedures herself if she had any concerns. She noted that Mr Ellery struggled to express himself and that he was 'clearly

tormented by some historical trauma'. She recorded that, when she asked Mr Ellery if he was upset about childhood trauma, he replied 'both, childhood and recent' and that he was 'struggling with thoughts'. Mr Ellery said that he would go to counselling in the community and she arranged for him to obtain advice from the prison psychotherapist about referral to community services when he was released. She told Mr Ellery that she would ask the psychotherapist to see him the next day. She also said that she would ask the GP to also prescribe a sleeping tablet because he said that he was having trouble sleeping because he was angry. She asked Mr Ellery if he had thoughts of suicide or self-harm and he told her that he did not and he was just feeling angry. She told investigators that she did not think Mr Ellery needed to be managed under ACCT procedures and that Mr Ellery had told her that he did not intend to harm himself and it was 'just the anger'.

56. At 5.24pm, a GP prescribed fluoxetine and sleeping medication for Mr Ellery. Mr Ellery lined up at the medication hatch that afternoon but had to return to his cell to be locked up before he received his medication.

57. Two prisoners in the cell next to Mr Ellery said that Mr Ellery could sometimes become quite angry. They said that he had a punching bag in his cell made from a laundry bag. They said that Mr Ellery did not go to dinner that night. The two prisoners in the cell on the other side of Mr Ellery also said that Mr Ellery could be quite an angry man and that they often heard him shouting. They said that a few nights before, Mr Ellery said that he had smashed up his cell after having a bad dream. At approximately 9.00pm, Mr Ellery asked them for a tea bag. They passed him a tea bag and Mr Ellery said 'see you tomorrow'.

58. At 9.07pm, Mr Ellery pressed his cell bell. Officer A spoke to Mr Ellery, who told him that he had seen someone from mental health that afternoon and the GP had prescribed medication for him. He said he would speak to healthcare about getting him his medication. He called healthcare and spoke to a nurse. She said that she would not bring his medication to the wing because Mr Ellery had all day to collect it from the medication hatch.

59. Officer A returned to Mr Ellery's cell and told him that a nurse would not bring his medication to the wing because he should have collected it that afternoon. Mr Ellery told him that he had waited in the medication line for as long as he could but had to return to the wing to be locked up. He told Mr Ellery that he would speak to the nurse again and did so, but she still refused his request. She told investigators that the officer she spoke to said that Mr Ellery was not overly stressed. She said that if Mr Ellery had been threatening, demanding or overly stressed or upset, she would have gone to the wing with his medication and talked to him. She said that healthcare staff would rarely issue medication at night unless the situation was life-threatening, and that she did not know that Mr Ellery had been seen by mental health that afternoon. She said that if she had known, she probably would have gone to the wing to speak to him.

60. At 10.17pm and 10.20pm, Mr Ellery pressed his cell bell again. Officer B, who worked on the next wing, said that he and Officer A often helped each other throughout the night. Both officers that Mr Ellery would want to know about his medication. Officer B went to Mr Ellery's cell, told him that he would ask the

custodial manager to sort out his medication and spoke to the custodial manager, who said that he would go and speak to one of the nurses. The custodial manager told Officer B that if Mr Ellery asked about his medication again, he should tell him that he would return with it between 11.00pm and 11.15pm.

61. At around 11.00pm, Officer B started checking the cells on A and B wings. He said that he stopped by Mr Ellery's cell to tell him that they were sorting out his medication. He opened the cell observation panel and saw Mr Ellery hanging from the privacy curtain rail near the sink with a ligature made from bedding.

62. Officer B called a code blue (an emergency code blue indicates a prisoner is unconscious, not breathing or is having breathing difficulties). Officer A and Officer C arrived about 30 seconds later and Officer B broke the seal on his key pouch to unlock the door and they entered the cell (at night, officers on wings do not carry cell keys on their key chains but have a key in a sealed pouch for use in an emergency). Officer B supported Mr Ellery's body while Officer C cut the ligature. Officer B said that there was a purple mark around Mr Ellery's neck from the ligature, his eyes were open and he was cold to touch. Officer B and Officer C placed Mr Ellery on the floor and started CPR and they took turns to perform chest compressions. Approximately five minutes later a nurse arrived at Mr Ellery's cell. She said that Mr Ellery was pale and cold and his tongue was blue. She managed Mr Ellery's airways and asked Officer A to give him oxygen.

63. Ambulance records note phone calls from the prison at 10.58pm, 11.02pm and 11.09pm that the caller from the prison did not provide information about Mr Ellery during the first two calls and did not know the emergency code. On the third call, the control room said that they needed a 'blue light' ambulance urgently because a prisoner was hurt. The ambulance service asked the caller to get more information because this would affect the response they provided. The ambulance service called the prison at 11.10pm and the control room put them through to an officer who told them what had happened to Mr Ellery. At 11.17pm, the ambulance service sent an ambulance to the prison.

64. The operational support grade working in the control room said that he did not have any information about Mr Ellery's condition when he called the ambulance. He said that he had been instructed that the ambulance service do not use the term 'code blue' and when calling an ambulance, he should say that he is not at the scene but that the prison needs an ambulance.

65. Staff tried to resuscitate Mr Ellery for twenty minutes until the paramedics arrived at 11:25pm. The paramedics continued attempts to resuscitate Mr Ellery but at 11.45pm, recorded that he had died.

Contact with Mr Ellery's family

66. At 2.35am, a prison family liaison officer and the Governor of HMP Cardiff went to Mr Ellery's parent's home but there was no answer. At 8.15am, they returned and told Mr Ellery's mother that he had died. They offered condolences and support. The prison contributed to the costs of Mr Ellery's funeral, in line with national guidance.

Support for prisoners and staff

67. After Mr Ellery's death, the duty governor debriefed the staff involved in the emergency response to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support. Some staff said that they were not involved in any debrief but said they would have found this process helpful. One staff member said they were not offered any support from the prison.

68. The prison posted notices informing other prisoners of Mr Ellery's death, and offering support.

Post-mortem report

69. The post-mortem report stated that Mr Ellery's cause of death was hanging.

Findings

Assessment of risk of suicide and self-harm

70. PSI 64/2011, which governs ACCT suicide and self-harm prevention procedures, requires all staff in contact with prisoners to be aware of the risk factors and triggers that might increase prisoners' risk of suicide and self-harm and to take appropriate action. Any prisoner identified as at risk of suicide or self-harm must be managed under ACCT procedures. Mr Ellery had a number of these risk factors including self-harm, mental illness, relationship instability, feelings of anger and a lack of social support.

71. Mr Ellery was anxious and, on 31 October, showed an officer and a mental health nurse some cuts that he had made a week before on his legs, chest and thighs. The officer said she spoke to a SO that afternoon about starting ACCT procedures. She said that they did not think that Mr Ellery needed to be managed under this process because he did not have any suicidal thoughts and had self-harmed seven or eight days ago and said he would not do it again. The nurse also told investigators that, when she left Mr Ellery after seeing him for the second time that afternoon, she did not think that he needed to be managed under the ACCT process.

72. In April 2014, we published a Learning Lessons Bulletin on 'Risk Factors in Self-Inflicted Deaths in Prison' where we identified that too often, staff place too much weight on how a prisoner 'presented', rather than indications of risk, even where there had been very recent acts of self-harm. The bulletin also highlighted that prisoners will often withhold the extent of their distress from staff and evidence of risk should be fully balanced against how the prisoner presents themselves,

73. Although Mr Ellery said that he did not have any suicidal thoughts and did not intend to harm himself again, he had a number of risk factors for suicide and self-harm and had recently harmed himself and staff should have started ACCT procedures. We make the following recommendation:

    The Governor should ensure that staff are aware of, consider and record all the known risk factors for suicide or self-harm. They should open an ACCT whenever a prisoner has recently self-harmed, expressed suicidal intent or has other significant risk factors. When, exceptionally, they decide not to begin ACCT procedures for prisoners with significant risk factors, they should clearly record the reasons.

Dual diagnosis

74. Cardiff's dual diagnosis policy states that integrated treatment should be provided for prisoners who have both mental health and substance misuse problems. The policy states that prisoners should have a joint assessment with both substance misuse and mental health services and that a risk assessment should be undertaken that considers their risk of suicide or harm including ideas, plans, intentions and associated behaviours.

75. The Head of Mental Health told investigators that the mental health team would not usually assess a prisoner who was going through substance withdrawal. He

said that the prisoner would instead work with the substance misuse team who would then refer to back mental health if there were any concerns after the prisoner had finished going through withdrawal.

76. The substance misuse worker had concerns about Mr Ellery's low mood and anxiety and spoke to the mental health team before and after they discussed his referral at their team meeting. She said that she did not know that Mr Ellery was not under the care of the mental health team and if she had known, she would have visited him more and might have completed a second mental health referral. The Head of Mental Health said that he told her that Mr Ellery would not be receiving mental health support. He said that he thought Mr Ellery would continue to be managed by the substance misuse team and she would refer back to mental health if she had any concerns.

77. Mr Ellery's mental health needs should have been addressed as well as his substance misuse needs. The PPO published a learning lessons bulletin on 'Prisoner Mental Health' in January 2016. In this bulletin we identified that difficulties in coping with mental health problems can be made worse when a prisoner also has to cope with difficulties of battling substance dependence. We recommended that prisoners undergoing substance misuse should not be prevented from accessing mental health services, and mental health and substance misuse services should work together to provide a coordinated approach to prisoner care which should involve the use of agreed dual diagnosis tools to assess prisoner needs and regular meetings to discuss and plan join care. We make the following recommendation:

The Governor and the Head of Healthcare should ensure prisoners with dual diagnosis receive appropriate integrated treatment.

New Psychoactive Substances

78. Mr Ellery was disciplined after staff observed that he was under the influence of illicit substances and when staff found a wrap of Spice and an asthma pump changed into a smoking device in his cell. While staff monitored Mr Ellery for 24 hours, there is no note in his medical record about this or that the substance misuse team reviewed him.

79. In July 2015, we published a Learning Lessons Bulletin on 'New Psychoactive Substances' where we identified that for some people, NPS can be a trigger for self-harm and recommended that drug treatment services should identify prisoners with substance misuse issues arising from the use of NPS, and then treat and monitor them appropriately. We make the following recommendation:

The Governor and Head of Healthcare ensure that staff consider the risks to physical and mental health and the risk of suicide and self-harm to prisoners under the influence of illicit substances and ensure there is adequate post-care.

Policy for issuing medication at night

80. Staff did not give Mr Ellery his prescribed medication on the night he died. While his antidepressant medication would not have been taken until the morning, his sleeping medication could have been taken that night. The nurse in healthcare refused to issue Mr Ellery's medication when prison staff contacted her on two occasions, and officers then arranged for the custodial manager to try and to get Mr Ellery his medication. While we cannot say whether the outcome for Mr Ellery would have been different if he had been issued his medication, staff were unclear about the policy for issuing medication at night.

81. While prison staff told investigators that nursing staff will issue medication at night, a nurse said that nursing staff would very rarely give out medication at night unless the situation was life threatening. The senior healthcare nurse confirmed that unless a prisoner was distressed and needed their medication, nursing staff would not issue medication at night for safety reasons. Officer A and Officer B said that they thought the custodial manager would be able to pick up the medication to give to Mr Ellery. However, the Head of Healthcare said that they would never give medication to an officer to issue to a prisoner. We make the following recommendation:

    The Governor and the Head of Healthcare should ensure that all prison staff are aware of the policy for issuing medication to prisoners at night.

Substance withdrawal and detoxification

82. Mr Ellery requested opiate substitute medication while undergoing withdrawal in prison but a nurse told him that the prison only gave this medication to prisoners who had been prescribed it in the community. In England this medication is available to all prisoners undergoing substance withdrawal. Opiate substitution medication is only available to prisoners in Wales if they are prescribed it in the community. While we do not link Mr Ellery's substance withdrawal treatment to his death, Healthcare Inspectorate Wales' (HIW) clinical review concluded that his withdrawal treatment was not the equivalent to that which he would have received in the community where he would have had access to opiate substitute medication.

83. This issue has been highlighted in a report from a recent PPO investigation into a death at HMP Swansea, and NOMS (now HMPPS) responded stating that the Director of NOMS for Wales and the Welsh Government would work closely with Health Inspectorate Wales and key stakeholders in substance misuse services in Wales to review the effectiveness of the current drug detoxification treatment provided in prisons. The prison noted that the intention of this review was to inform the update of the Welsh Government's Offender Treatment Framework, which is to be revised as part of the Welsh Government's Working Together to Reduce Harm (Substance Misuse) Delivery Plan 2016 – 2018 by March 2018.

84. Concerns about drug detoxification services in Welsh prisons have also been raised in previous reviews, reports from the IMB, a recent HMIP inspection and in the Thematic Report by HMIP, 'Changing patterns of substance misuse in adult prisons and service responses'. In that report, HMIP made a recommendation to the Welsh Assembly, Ministers and Her Majesty's Prison and Probation Service

that prisoners in England and Wales should have consistent access to equivalent substance misuse treatment. We repeat our previous recommendation:

The Chief Executive of Her Majesty's Prison and Probation Service and the Director General for Health and Social Services/the Chief Executive of NHS Wales should ensure prisoners in Welsh prisons have access to effective drug detoxification treatment from their first night in custody.

Emergency response

85. PSI 03/2013 on Medical Emergency Response Codes requires staff to use a code blue or equivalent code in a medical emergency and for the control room to call an ambulance immediately an emergency code is used. The PSI is clear that prisons should not wait for healthcare staff or a duty manager to decide whether an ambulance is needed and that an ambulance can be cancelled later if not needed.

86. There was a 19 minute delay between the officer calling an emergency code blue over the radio and the ambulance service sending paramedics. When Officer B called a code blue, ambulance service records show that control room staff did not tell them that the officer called a code blue and it was only after three phone calls and speaking to another officer that they found out about Mr Ellery's condition and sent an ambulance. The officer told investigators that that he called for an ambulance immediately after the code blue was called over the radio, but there was a delay in sending an ambulance because he did not have sufficient information about Mr Ellery's condition when making the phone call. We make the following recommendation:

The Governor should ensure that all prison and healthcare staff are made aware of and understand PSI 03/2013 and their responsibilities during medical emergencies as outlined in the local Medical Emergency Response Code Protocol so that staff efficiently communicate the nature of a medical emergency, and there is no delay in calling, directing or discharging ambulances.

Prisons &
Probation
Ombudsman
Independent Investigations

PO Box 70769
London, SE1P 4XY

Email: mail@ppo.gsi.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100
F | 020 7633 4141